

REMARKS

In this paper, claim 5 is currently amended. After entry of the above amendment, claims 1-37 are pending.

Claims 1-7 and 9-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Turner (US 2002/0014366) in view of Nakabayashi, et al (JP 4-150729). This basis for rejection is respectfully traversed.

The mere fact that the prior art could be modified would not have made the modification obvious unless the prior art suggested the desirability of the modification. In re Laskowski 871 F.2d 115, 10 USPQ.2d 1397 (Fed.Cir. 1989). The motivation stated to combine the teachings of Turner and Nakabayashi, et al is to “supply precise output values to each component in the system thereby creating a more efficient system.” However, the motivation to combine must be clear and particular, and it must be supported by actual evidence. *Teleflex, Inc. v. Ficosa North America Corp.*, 299 F.3d 1313, 63 USPQ.2d 1374, 1387 (Fed.Cir. 2002). The examiner may not, because he or she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. *Ex parte Haymond*, 41 USPQ2d 1217 (BdPatApp&Int 1996). There is no evidence or reason to believe that the output values of the Nakabayashi, et al batteries are “precise,” nor was any factual basis provided to determine just exactly what constitutes a “more efficient system” in the context of the Turner electric bicycle. The factual question of motivation is material to patentability and cannot be resolved on the basis of subjective belief and unknown authority. *In re Lee*, 277 F.3d 1338, 61 USPQ.2d 1430 (Fed.Cir. 2002).

As for claims 2 and 3, the office action refers to resistor (11) as a power inhibiting unit, but a resistor does not *prevent* power communication as recited in those claims.

As for claim 5, *et seq.*, the office action states that it would be obvious to use Nakabayashi, et al’s diodes (15) as reverse current inhibiting units in the Turner electric bicycle “to eliminate stray currents that may cause malfunction in the system.” Such a statement is improper conclusory

speculation without evidence or basis to conclude what stray currents, if any, may exist in the Turner system, or what malfunctions, if any, such stray currents may cause.

As for claim 10, although the Turner electric bicycle does disclose loads that have varying capacitances, there is no suggestion anywhere to partition the power supplies according to capacitances. The only suggestion to do so comes from the applicants' specification. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to use that which the inventor taught against its teacher. *Id.*

Claims 8, 16-19, 22-25, 27-32 and 34-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Turner in view of Nakabayashi, et al and Mitchell (US 6,355,990). This basis for rejection is respectfully traversed for the same reasons noted above.

Furthermore, with respect to claim 24, there is no suggestion to convert Nakabayashi, et al's battery (7) into first and second split power supplies, and Mitchell does not cure this deficiency. Mitchell discloses separate power supplies, one for each load. One would not be led to convert Nakabayashi, et al's battery (7) into multiple batteries to power the same load (10). Mitchell teaches exactly the opposite.

As for claim 29, none of the references even disclose a suspension adjusting mechanism.

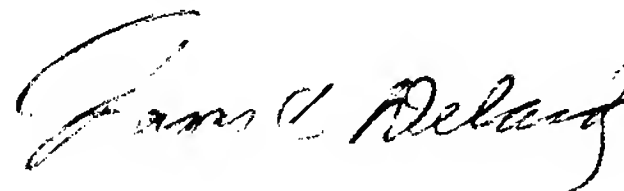
Claims 14, 15, 20, 21, 26 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Turner in view of Nakabayashi, et al, Mitchell and Yoshimi (JP 1-318519). This basis for rejection is respectfully traversed for the same reasons noted above.

Furthermore, while the office action properly notes that Yoshimi discloses a diode placed between a switch and an output, that does not automatically render obvious the placement of diodes between every switch and another circuit element. The office action states the motivation to do so as being to prevent stray currents from flowing backward in the system when trying to charge the storage elements and possibly cause malfunction or incorrect voltages in other storage elements or electrical components. Such a statement is improper speculation in that the potential malfunctions were not identified, nor is there any reason to believe that improper voltages would occur in the

Mitchell system given the sophisticated digital logic used to control the charging operations as shown in Fig. 1B, 3 and 4 of the Mitchell patent.

Accordingly, it is believed that the rejections under 35 U.S.C. §103 have been overcome by the foregoing amendment and remarks, and it is submitted that the claims are in condition for allowance. Reconsideration of this application as amended is respectfully requested. Allowance of all claims is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James A. Deland".

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